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C O N F I D E N T I A L SECTION 01 OF 02 KUWAIT 002873

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TAGS: [MOPS](#) [PREL](#) [EAID](#) [MARR](#) [PGOV](#) [KU](#) [IZ](#)

SUBJECT: NEGOTIATIONS BEGIN TO ENSURE CONTINUED FUEL  
SUPPLIES FOR IRAQ OPERATIONS

REF: A. KUWAIT 2772

[1](#)B. KUWAIT 02747

Classified By: Charge d'Affaires Matthew H. Tueller, Reasons  
1.4(a) and (d)

[1](#)1. (U) This is an action request; please see paragraph 7.

[1](#)2. (C) Initial discussions between the USG and Kuwait Petroleum Corporation (KPC) to ensure KPC's continued provision of assistance-in-kind (AIK) and Operation Iraqi Freedom (OIF) fuel supplies began on August 30. The KPC delegation, led by Chairman Nader Sultan, included Kuwait Oil Tanker Company Managing Director (and KPC board member) Abdullah Al-Roumi; Executive Assistant Managing Director for Supply Khaled Al-Bader; Senior Legal Officer Jeremy Kingsley; and Coordinator for Sales, Middle Distillates Department Waleed Al-Abduljalil. The US delegation, chaired by CDA Matthew Tueller, included visiting contract specialists from the Pentagon and the Defense Energy Support Center (DESC); representatives from the Coalition Forces Land Component Command (CFLCC); and representatives of the Office of Military Cooperation-Kuwait; econoff was notetaker.

[1](#)3. (C) Sultan began by expressing his gratitude for the US liberation of Kuwait and the two governments' cooperation over the past eighteen months. However, the Ministry of Defense has notified KPC that it has no funding to continue paying for AIK/OIF fuel supplies beyond April 1, 2003. KPC was also informed that the Council of Ministers decided to terminate gratis OIF fuel effective June 29. Because KPC is a commercial operation with commercial risk and exposure, Sultan said, it must have a contract in place specifying the duration that fuel supplies will be provided, in what quantities, and at what price. Sultan noted that KPC's external auditors have begun questioning their debts to the Ministry of Defense. Given these factors, he said, KPC concluded that it must shut off supply as of September 4 in the absence of a commercial contract.

[1](#)4. (C) As a starting point for negotiations, KPC provided a draft agreement modeled on its contract with DESC. CDA, noting that the GOK and USG were engaged in ongoing discussions on this issue -- most recently during the visit of Secretary Powell -- asked that a discussion of price be reserved for a future discussion at the political level. When pressed on the timetable for such discussions, CDA said that he hoped the meeting would occur by the end of September.

[1](#)5. (C) The two teams plan to meet again on September 1 to follow up on several issues. The US delegation agreed to research four items:

[1](#)A. VISIT OF HIGH-LEVEL NEGOTIATING TEAM. Sultan stressed the need for high-level political negotiations over contract price and duration to take place as soon as possible. The US team agreed to try to secure a date for that visit.

[1](#)B. ACCEPTABILITY OF DRAFT CONTRACT. The DOD/DESC contract experts identified a few shortcomings upon initial review of the draft. First, the pricing and duration clauses must be modified to allow for a deferred political-level decision. Second, the contract dispute clause must be modified to specify that US law governs dispute resolution, rather than British law. Third, the draft contract includes a confidentiality clause, which the US cannot guarantee under

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the Freedom of Information Act.

[1](#)C. DURATION OF CONTRACT. KPC advised that their contracts with DESC are normally for the period of one calendar year. CDA noted that the US would likely seek the maximum period for the contract's applicability but that this would hinge on political discussion re pricing.

[1](#)D. SUPPLY SOURCES. CFLCC provided KPC with projections of AIK and OIF fuel needs. KPC requested that CFLCC break down the AIK projections further to indicate the quantities of fuel drawn from each of two supply sources, Mina Abdullah and KAFCO. This would allow KPC to tailor the contract to specify the quantity of fuel that each source would provide.

16. (C) The Kuwaiti delegation agreed to look into two issues:

1A. SUSPENSION OF SEPTEMBER 4 CUT-OFF. CDA said that Minister of Energy advised him that the September 4 suspense date would be nullified if a team were sent to begin negotiations. Sultan said that he would need to verify this with the GOK.

1B. US-MINISTRY OF DEFENSE AIK PROVISIONS. Sultan acknowledged that KPC has not been privy to political arrangements between the USG and the GOK regarding provision of AIK fuel. He said that he would need to verify that the Ministry of Defense would continue to pay for AIK fuel use in Kuwait, and that this arrangement was separate from the provision of fuel for OIF.

17. (C) ACTION REQUEST. Post requests that Washington confirm that we should continue pressing for an agreement that leaves the contract price and duration open pending high-level political negotiations. Post also requests that Washington provide dates for a senior-level team to conclude crucial price agreement as soon as possible, to ensure that fuel supplies are not terminated. END ACTION REQUEST.

18. (U) Baghdad minimize considered.  
TUELLER